

JUL 01 2014

JAMES N. HESTON, Clerk  
By *[Signature]* Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT GEORGIA  
ATLANTA DIVISION

**WSD**

TRUST PROPERTIES TRUSTEE  
4422-B HUGH HOWELL RD.  
SUITE 200  
TUCKER, GA. 30084

PLAINTIFF,

VS.

LILLIAN HARVEY  
DEWONN HARVEY  
1713 TREELINE ROAD  
LITHONIA, GA. 30058  
DEKALB COUNTY

DEFENDANT

Civil Case No.

**1:14-CV-2075**

Cross Reference to the  
Magistrate Court of Dekalb  
County Case No. 14D14501

**EMERGENCY COMPLAINT TO VACATE AND SET ASIDE ILLEGAL EVICTION  
AND DISPOSSESSORY/WRIT AND DECLARATORY RELIEF  
PRELIMINARY STATEMENT  
With A Federal Stay Of Removal**

1.

This action is brought by Defendant Lillian Harvey tenant, who holds a fee simple lease agreement to property located at 1713 Treeline Road Lithonia, GA. 30058 Dekalb County against the alleged property management company **Trust Properties Trustee**, that held and serviced a lease agreement on the residential property known as 1713 Treeline Road Lithonia, GA. 30058.

**JURISDICTION**

2.

Jurisdiction and venue of this Court over this matter is invoked pursuant to the 28 U.S.C. A§ 1331, 1332, 1343 and 1357. The amount in controversy exceeds past due and current rent amount exclusive of interest and costs.

**PARTIES**

3.

Defendant Lillian Harvey and Dewonn Harvey is the lease agreement holder and the property is located at 1713 Treeline Road Lithonia, GA. 30058 Dekalb County state of Georgia.

4.

Plaintiff Trust Properties Trustee who is the property management group; with its principle place of Business held at 1713 Treeline Road Lithonia, GA. 30058 and may be served with a copy of this Motion, and Summons upon its registered agent Trust Properties Trustee located at 4422-B Hugh Howell Road Suite 200 Tucker, GA. 30084 Dekalb County state of Georgia. Plaintiff Trust Properties Trustee, regularly transacts business in the State of Georgia. Plaintiff Trust Properties Trustee is a debt collector and a property management group as those terms are defined in FDCPA, 15 U.S.C. A§ 2605(i) (2).

5.

Plaintiff Trust Properties Trustee may be served with a copy of this Motion and Summons upon its counsel of Record.

**NATURE OF THE ACTION  
AND BACKGROUND FROM DEFENDANT**

6.7.8.

This is an action to enjoin Plaintiff from conducting and enforcing an illegal writ of possession with respect to property located at 1713 Treeline Road Lithonia, GA. 30058, against Defendant and to set aside the illegal eviction and to suspend payments into the registry of Magistrate Court of Dekalb County and for damages based upon wrongful eviction with respect to property located at 1713 Treeline Road Lithonia, GA. Dekalb County . Said property is located within this District. Defendant Trust Properties Trustee further seeks an emergency temporary restraining order, a preliminary injunction, against the Plaintiff known as Trust Properties Trustee.

**COUNT I  
ILLEGAL EVICTION**

9.

Trust Properties Trustee, claims an interest in the property known as 1713 Treeline Road Lithonia, GA. 30058. Trust Properties Trustee is trying to go forth with an illegal eviction.

**COUNT II  
ILLEGAL DISPOSSESSORY AND WRIT OF POSSESSION**

10.

Defendant Lillian Harvey avers that Plaintiff Trust Properties Trustee illegal dispossessionary and writ of possession piggy-backed upon Trust Properties Trustee having no legal standing to Evict on the Defendant Lillian Harvey.

11.

Defendant Lillian Harvey avers that Plaintiff Trust Properties Trustee, have actual and constructive knowledge that the Landlord have no legal standing to Evict on Defendant's property.

### FEDERAL STAY OF REMOVAL

The Respondent did violate 15 USC 1692 , Rule 60 of the Federal Rule of Civil procedure ; and having legal duty to abort EVICTION pursuant to OCGA 51-1-6.

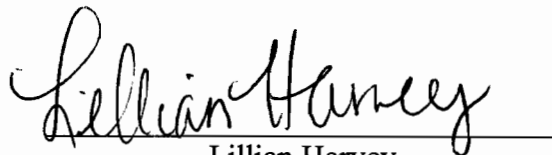
The Magistrate Court of Dekalb County Disposessory action is in violation of the 14<sup>th</sup> Amendment of the U.S. Constitution with respect to Due Process of Law.

The Magistrate Court of Dekalb County Disposessory is Unconstitutional with respect to the "Due Process Clauses" 14<sup>th</sup> Amendment.

### PRAYER FOR RELIEF

**WHEREFORE**, the Defendant Lillian Harvey respectfully requests that this Court:

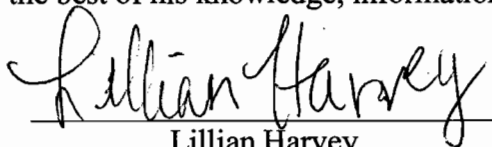
1. Enjoin and issue **INSTANTER**, an emergency temporary restraining order, preliminary and interlocutory injunction against the Plaintiff Trust Properties Trustee, illegal disposessory proceedings and writ possession issued in the Magistrate Court of Dekalb County;
2. Enjoin and issue **INSTANTER** an emergency temporary restraining order preliminary and interlocutory injunction against Trust Properties Trustee;
3. Enjoin and issue **INSTANTER** an emergency temporary restraining order, preliminary and interlocutory injunction against Trust Properties Trustee, illegal eviction;
4. Grant such other or further relief as is appropriate. Respectfully submitted,

A handwritten signature in cursive script, reading "Lillian Harvey", is written over a horizontal line.

Lillian Harvey  
1713 Treeline Road  
Lithonia, GA. 30058  
Dekalb County  
Pro Se

### VERIFICATION

Personally appeared before me, the **undersigned** officer, duly sworn authorized and qualified to administer oaths, who after being duly sworn, deposes and states on oath that the information within the foregoing **COMPLAINT** is true and correct to the best of his knowledge, information and belief.

  
Lillian Harvey  
Pro Se

### CERTIFICATE OF SERVICE

I, Lillian Harvey hereby certify that a copy of the foregoing **MOTION, SUMMONS** and **VERIFICATION** has been served pursuant to Fed.R. Civ.P 4 this 30<sup>th</sup> day of June 2014 upon all interested parties named below by regular United States Mail postage prepaid, unless another manner of service is expressly indicated, to ensure proper delivery:

TRUST PROPERTIES TRUSTEE  
4422-B HUGH HOWELL ROAD  
SUITE 200  
TUCKER, GA. 30084

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on June 30, 2014 By:

Lillian Harvey  
1713 Treeline Road  
Lithonia, GA. 30058  
DeKalb County



Trust Properties  
Trustee:

**MAGISTRATE COURT OF DEKALB COUNTY**

**DISPOSSESSORY  
WARRANT**

(770) 939-8283

Plaintiff's Name and Address

vs.

Plaintiff's Attorney and Address

Ga. Bar No. 479762

Atty: R. Mays  
PO Box 13489  
Atlanta, Ga. 30324-3605

Lillian Y Harvey, Dewonn Harvey  
And All Other Occupants  
1713 Treeline Road  
Lithonia, GA 30058

Defendant's Name and Address

DP#: 665063

Personally appeared the undersigned who upon oath says that he is (owner), (attorney at law), (agent), (attorney in fact) for the owner of said premises, and that Defendant is in possession as tenant of premises at the above address in DeKalb County.

**FURTHER:**

- ☒ That said tenant fails to pay rent now due thereon;  
☐ That tenant is holding said house and premises over and beyond the term for which the same was rented or leased to him;  
☐ That said tenant is a tenant at sufferance;

The said owner desires and has demanded possession of said house and premises, and the same has been refused by the said defendant and affiant makes this affidavit that a warrant may issue for the removal of said defendant together with his property from said house and premises.

**PLAINTIFF PRAYS:**

- (a) judgment for the past due rent in the amount of \$1,895.00; MAY - JUNE  
(b) rent accruing up to the date of judgment or vacancy at the rate of \$ \$1,050.00 per month  
(c) other \$205.00 Late Fee + \$51.50 Court Cost + \$293.50 Consq Exp  
\$105.00 Svc Fee

**SUMMONS**

TO THE MARSHAL of the State Court of DeKalb County or his lawful deputies, GREETINGS:

The defendant herein is hereby commanded and required personally or by attorney to file with the Clerk of the Magistrate Court of DeKalb County, 2<sup>nd</sup> Floor, Suite 270, Administrative Tower, DeKalb County Courthouse, 556 N. McDonough St., Decatur, Georgia with-in seven (7) days from the date of service of the within affidavit and summons (or on the first business day thereafter if the seventh day falls on Saturday, Sunday or legal holiday) then and there to answer said affidavit in writing or orally. If such answer is not made to said affidavit on or before the 12 day of JUNE, 2014, a writ of possession shall issue instantan as by law provided, and a judgment by default will be taken against you for all rents demanded in the complaint.

Witness, the Honorable Berryl A. Anderson of said Court

Sworn to, subscribed and filed before me, this

Jun 11th 2014, 20

Affiant

D. CAMPBELL

By:

Deputy Clerk

Phone No.

**AFFIDAVIT OF SERVICE**

I have served the foregoing affidavit and summons on the Defendant(s) by delivering a copy of the same:

- ☐ Personally ☐ Defendant not found in the jurisdiction of this Court  
☐ To a person sui juris residing on the premises (Name) \_\_\_\_\_  
Age \_\_\_\_\_ Wt. \_\_\_\_\_ Ht. \_\_\_\_\_  
☐ By posting a copy to the door of the premises and depositing a copy in the U.S. Mail, First Class in an envelope properly addressed with adequate postage thereon, said copy containing notice to the Defendant (s) to answer at the place stated in said summons.

DATE OF SERVICE \_\_\_\_\_

Sworn to before me \_\_\_\_\_